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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/055,399	01/23/2002	John J. Gregel	ERICP0329USA	7238
7590	10/19/2004			
Jonathan A. Platt Renner, Otto, Boisselle & Sklar, LLP Nineteenth Floor 1621 Euclid Avenue Cleveland, OH 44115-2191			EXAMINER OMGBA, ESSAMA	
			ART UNIT 3726	PAPER NUMBER
DATE MAILED: 10/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/055,399	<b>Applicant(s)</b> GREGEL ET AL.	
	<b>Examiner</b> Essama Omgba	<b>Art Unit</b> 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4-12, 14-21, 35 and 37-62 is/are pending in the application.
- 4a) Of the above claim(s) 10-12, 18 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-9, 14-17, 19, 21, 42-48 and 55-62 is/are allowed.
- 6) ☒ Claim(s) 35, 37-39 and 49 is/are rejected.
- 7) ☒ Claim(s) 40, 41 and 50-54 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- 1. ☐ Certified copies of the priority documents have been received.
  - 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The indicated allowability of claims 35, 37-39 and 49 is withdrawn in view of the newly discovered reference(s) to Werner (US Patent 4,408,926). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 35, 37-39 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Werner (US Patent 4,408,926).

With regards to claims 35 and 49, Werner discloses a rebar tool comprising pivoting arms 76, a distal end of each pivoting arm being provided with a notch 84 to accommodate a bar passing therethrough, each distal end also including a bearing section on each side of the notch with a rounded surface (figure 6), see column 3, lines 18-26. Although the arms of the tool of Werner are not power operated such as by a piston-cylinder assembly, however it is within the general knowledge of one of ordinary skill in the art to convert such arms to power operated arms. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have converted the arms of Werner's tool to be power operated by a piston-cylinder assembly as is within the general knowledge of one of ordinary skill in the art.

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For claims 37-39, Applicant should note that the arms of the tool of Werner could drive shear tooling, bar forming tooling and coupling forming wedge sleeve driving tooling.

***Allowable Subject Matter***

4. Claims 4-9, 14-17, 19, 21, 42-48, 61 and 62 are allowed.
5. Claims 40, 41 and 50-60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (703) 305-2915. The examiner can normally be reached on M-F (10-7:30) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Essama Omgba  
Primary Examiner  
Art Unit 3726

eo  
October 18, 2004